



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2012

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2012-15972

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 467174 (#SMIJ071612).

The Plano Police Department (the "department") received a request for any police reports filed against a named individual during a specified time period. You inform us that the department has released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, you inform us that report number 2012-00096700 was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-10547 (2012). In that decision, we ruled the department must withhold certain information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code and, with the exception of basic information, may withhold certain information under section 552.108 of the Government Code. We understand the law, facts, or circumstances on which the previous ruling was based have not changed. Accordingly, we conclude the department must continue to rely on Open Records Letter No. 2012-10547 as a previous determination and withhold or release report

¹Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

number 2012-00096700 in accordance with that ruling.³ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments against disclosure of the remaining information, which was not at issue in the previous ruling.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

³As our ruling for this information is dispositive, we need not address your argument against its disclosure.

- (1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and
- (2) any information that is excepted from required disclosure under [the Act], or other law.

Fam. Code § 58.007(c), (e), (j). Thus, under section 58.007, law enforcement records relating to a juvenile engaged in delinquent conduct or conduct indicating a need for supervision on or after September 1, 1997, are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we find the remaining information consists of law enforcement records that involve juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Accordingly, this information is generally subject to section 58.007(c).

However, in this instance, the requestor is a parent of one of the juvenile offenders listed in the reports at issue. Therefore, this requestor has a right to inspect information concerning her child under section 58.007(e). *Id.* § 58.007(e). Accordingly, the department may not withhold the information at issue from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, personally identifiable information concerning any other juvenile suspect, offender, victim, or witness that is not the requestor’s child must be redacted pursuant to section 58.007(j)(1). *See id.* § 58.007(j)(1). Additionally, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Thus, we will consider your remaining arguments against disclosure.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the information at issue pertains to a pending criminal case. You also state the Collin County District Attorney’s Office has advised the release of the information you have marked under section 552.108 would interfere with the prosecution of this case. Based on your representations and our review, we conclude release of this information would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) applies to the information at issue.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. Basic information must be released, even if it does not literally appear on the front page of the report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You seek to withhold the entire narrative portions of the information at issue under section 552.108. However, the remaining portions of this information do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. See *id.* Accordingly, we determine the department must release sufficient portions of the narratives to encompass detailed descriptions of the offenses to satisfy the required release of basic information pursuant to *Houston Chronicle*. Thus, with the exception of sufficient portions of the narratives to encompass detailed descriptions of the offenses, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You claim section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code for some of the remaining information. As noted above, personally identifiable information concerning any other juvenile suspect, offender, victim, or witness that is not the requestor’s child must be redacted pursuant to section 58.007(j)(1). See Fam. Code § 58.007(j)(1). You have marked the information you seek to withhold under section 552.101 in conjunction with section 58.007(j)(1). We note some of this information does not identify any other juvenile suspects, offenders, victims, or witnesses. Accordingly, the department must only withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The remaining information you have marked may not be withheld under section 552.101 on that basis.

You also assert section 552.130 of the Government Code for some of the remaining information. This section excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or motor vehicle title or registration issued by an agency of this state or another state or country. See Gov’t Code § 552.130(a)(1)-(2). You have marked the driver’s license and motor vehicle record information you seek to withhold under section 552.130. We note, however, some of the motor vehicle record information you marked belongs to the requestor. Because section 552.130 protects personal privacy, the requestor has a right of access to her own motor vehicle record information under section 552.023 of the Government Code. See *id.* § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, the department must withhold the driver’s license information and motor vehicle record information pertaining to other individuals, which we have marked, under section 552.130 of the Government Code.

In summary, the department must continue to rely on Open Records Letter No. 2012-10547 as a previous determination and withhold or release report number 2012-00096700 in accordance with that ruling. With the exception of sufficient portions of the narratives to encompass detailed descriptions of the offenses, the department may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the remaining information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code, and section 552.130 of the Government Code. The department must release the remaining information.⁴

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 467174

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.